

REMARKS

Status of the Claims

Claims 9, 10, 14-16, and 34 were pending in the application.

Claims 9, 10, 14-16, and 34 were rejected.

Claim 10 is amended.

New claims 40-45 have been added.

Upon entry of this amendment, claims 9, 10, 14-16, 34, and 40-45 will be pending.

Summary of the Invention

Claim 10 has been amended to recite the route of administration for the delivery of DNA being selected from the group consisting of intradermal, subcutaneous, intraperitoneal, and intramuscular. Support for this amendment is found throughout the specification and the originally filed claims.

Claims 40 – 45 have been added to define and clarify embodiments of the injection. Support for these claims appear throughout the specification and in the originally filed claims.

No new matter has been added.

Rejection Under 35 U.S.C. 112, first paragraph

Claims 9, 10, 14-16, and 34 stand rejected based upon 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. The Office asserts that the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the claimed invention. The Office maintains that, due to what it alleges as unpredictability in the art as the art relates to administration of DNA by “any method of delivery which transforms cell at the located site,” the Office concludes that the specification does not enable any person skilled in the art to which it pertains, or with which it is nearly connected, to make and/or use the invention commensurate in scope with these claims. (Office Action, page 3).

Applicants respectfully disagree but, solely in the interest of expediting prosecution, have amended claim 10 to recite the following routes of administration: intradermal, subcutaneous,

intraperitoneal, and intramuscular. New claims 40-45 have been added to define the invention and better clarify the embodiments of the invention. Applicants urge that the evidence and reasoning in the specification support the conclusion that one skilled in the art would accept Applicants' assertion that the newly amended claims are enabled by the specification.

The claims are clearly enabled one skilled in the art would be able to practice claimed invention with sufficient guidance. The application is in compliance with the requirements set forth in the first paragraph of section 112. Applicants respectfully request that the rejection under 35 U.S.C. § 112, first paragraph be withdrawn.

Conclusion

Claims 9, 10, 14-16, 34, and 40-45 are in condition for allowance. A notice of allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any deficiencies of fees and credit of any overpayments to Deposit Account No. 50-0436.

Respectfully Submitted,

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